

COPY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC/US BANK MAR 08 2012

In the Matter of

Qwest Corporation

Assignor

All West Communications, Inc.

Assignee

For Assignment of Four Areas in Utah and Wyoming, Including
Lines Used in the Provision of Interstate Telecommunications
Services Pursuant to a Domestic Blanket Authorization under
Section 214 of the Communications Act

12-66
WC Docket No.

TO: Chief, Wireline Competition Bureau

**NON-STREAMLINED APPLICATION FOR ASSIGNMENT OF ASSETS
SUBJECT TO DOMESTIC BLANKET SECTION 214 AUTHORIZATION**

Qwest Corporation ("Qwest" or "Assignor") and All West Communications, Inc. ("All West" or "Assignee"; FRN: 0004924809) hereby request Commission authorization for the assignment of the following four portions of Qwest's Utah and Wyoming local exchange service areas to All West: (1) a previously unserved 100-acre portion of a new private development (which contained approximately 73 building lots at the time of filing of Qwest's and All West's pending November 30, 2007 study area waiver petition, and currently contains approximately 58 customers and approximately 65 access lines) from Qwest's Park City, Utah exchange to All West's Jordanelle, Utah exchange; (2) the Utah portion of Qwest's Wasatch, Utah exchange (which contained approximately 8 customers and 10 access lines at the time of filing of Qwest's and All West's December 19, 2008 amendment to the pending study area waiver petition, and which currently contains approximately 9 customers and approximately 11 access lines) to All West's Coalville,

Utah exchange; (3) a non-certificated and previously unserved 135-square mile area between Qwest's Wasatch, Utah exchange and All West's Coalville, Utah exchange (which contained no customers at the time of filing of Qwest's and All West's December 19, 2008 amendment to the pending study area waiver petition, and which currently contains approximately 0 customers and approximately 0 access lines) to All West's Coalville, Utah exchange; and (4) a previously unserved five-square-mile portion of southwestern Uinta County, Wyoming (which contained four business customers and approximately 10 access lines at the time of filing of Qwest's and All West's pending November 30, 2007 study area waiver petition, and currently contains approximately 4 customers and approximately 10 access lines) from Qwest's Wyoming study area to All West's Anschutz, Wyoming exchange. All four areas include (or may some day include) lines used in the provision of interstate long distance toll services and interstate exchange access services pursuant to blanket domestic Section 214 authorizations.

Qwest is a Delaware corporation that provides voice, data, video and Internet services both nationally and globally.¹ It furnishes local telephone exchange services and exchange access services as in incumbent local exchange carrier ("ILEC") in a fourteen-state area that includes Utah and Wyoming, as well as Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota and Washington.

All West is a Utah corporation that provides local exchange telephone services and exchange access services in eight exchanges (Coalville, Jordanelle ILEC, & Jordanelle CLEC, Park City, Kamas, Randolph, Heber, & Timber Lakes in Summit, Wasatch, and Rich

¹ Qwest Corporation is indirectly wholly owned by CenturyLink, Inc.

Counties in rural northeastern Utah, and in three exchanges (Anschutz, Cokeville and Evanston) in Uinta and Lincoln Counties in rural southwestern Wyoming. All West currently serves approximately 7,500 access lines.

The proposed "transaction" involves the assumption by All West of the responsibility to serve the four areas.² The Park City-Jordanelle transfer constitutes a settlement by Qwest and All West of an exchange boundary dispute regarding a then-unserved portion of a private development, which dispute was resolved via stipulation before the Utah Public Service Commission ("Utah PSC") (see Utah PSC's *Report and Order Approving Stipulation* in Docket No. 02-2270-01, issued November 29, 2006, attached as Exhibit 1). The other three transfers all entail All West's assumption of responsibility pursuant to state commission orders (see Exhibits 2 and 3) to serve remote areas that contained no customers or a very small number of customers, and that were not economically or technically feasible for Qwest to serve. At the time that the pending study area waiver filings were made, the four areas contained a total of 12 customers and 20 access lines. They now contain a total of approximately 71 customers and approximately 86 access lines.

In accordance with the requirements of Section 63.04(a) of the Commission's Rules, the applicants submit the following information:

² The transaction does not contemplate the transfer of any telecommunications facilities from Qwest to All West.

(1) Name, address and telephone number of each applicant:**Assignor:**

Qwest Corporation
 1801 California Street
 Denver, Colorado 80202
 Telephone: (303) 992-2503
 Facsimile: (303) 896-1107

Assignee:

All West Communications, Inc.
 50 West 100 North
 Kamas, Utah 84036
 Telephone: (435) 783-4361
 Facsimile: (435) 783-4928

(2) Government, state or territory under the laws of which each corporate or partnership applicant is organized:

Qwest is a corporation organized under the laws of the State of Delaware.

All West is a corporation organized under the laws of the State of Utah.

(3) Name, title, post office address, and telephone number of the officer or contact person to whom correspondence concerning the application is to be addressed:**For Assignor:**

Craig J. Brown, Associate General Counsel
 Qwest Services Corporation
 1801 California Street, 10th Floor
 Denver, Colorado 80202
 Telephone: (303) 992-2503
 Facsimile: (303) 896-1107

For Assignee:

Matthew Weller, President
 All West Communications, Inc.
 50 West 100
 Kamas, Utah 84036
 Telephone: (435) 783-4361
 Facsimile: (435) 783-4928

With a copy to Counsel:

Gerard J. Duffy, Esquire
 Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP
 2120 L Street, N.W. (Suite 300)
 Washington, D.C. 20037
 Telephone: (202) 659-0830
 Facsimile: (202) 828-5568

- (4) Name, address, citizenship and principal business of any person or entity that directly owns at least ten (10) percent of the equity of the applicant, and the percentage of equity owned by each of those entities:**

Qwest:

Qwest Corporation is indirectly wholly owned by Qwest Communications International Inc. (QCII). On April 1, 2011, QCII and CenturyLink, Inc. consummated a transaction whereby QCII became a wholly owned subsidiary of CenturyLink. No publicly held company owns more than ten percent (10%) of the stock of CenturyLink.

All West:

The name, address, citizenship and principal business of the only entities that own ten (10) percent or more of the equity and voting power of Assignee All West both before and after the proposed transaction are:

<u>Name & Address</u>	<u>% Voting & Equity</u>	<u>Citizenship</u>	<u>Principal Business</u>
Carl & Connie Clark 50 West 100 North Kamas, UT 84036	100%	U.S.A.	Telecommunications

No other entity owns or controls ten (10) percent or more of the equity and voting power of All West.

- (5) Certification pursuant to 47 C.F.R. Sections 1.2001 through 1.2003 that no party to the application is subject to denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.**

Qwest and All West hereby certify, pursuant to 47 C.F.R. Sections 1.2001 through 1.2003 that no party to the present application is subject to denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.

(6) Description of the transaction:

The proposed "transaction" involves four instances in which All West, with the permission of the state commission having jurisdiction, has assumed responsibility for the provision of local exchange telecommunications services (including interstate exchange access services) to predominantly unserved rural areas that were formerly within the boundaries of a Qwest exchange and/or study area. At the time that the pending study area waiver filings were made, the four areas contained a total of 12 customers and 20 access lines. They now contain a total of approximately 71 customers and approximately 86 access lines.

The first portion of the transaction consists of the transfer of a previously unserved 100-acre portion of the Promontory Ranch Club, a private development, from Qwest's Park City, Utah exchange to All West's Jordanelle, Utah exchange. This constitutes a settlement by Qwest and All West of an exchange boundary dispute before the Utah PSC. It was effected pursuant to a stipulation approved by the Utah PSC in its *Report and Order Approving Stipulation* in Docket No. 02-2270-01, issued November 2, 2006, attached as Exhibit 1. At the time of the Utah PSC order and of the filing of Qwest's and All West's pending November 30, 2007 study area waiver petition, the area contained approximately 73 unconstructed building lots. It currently contains approximately 58 customers and approximately 65 access lines.

The second portion of the transaction comprises the transfer of the Utah portion of Qwest's Wasatch, Utah exchange to All West's Coalville, Utah exchange. The change was made pursuant to the approval of the Utah PSC in its *Order Granting Joint Petition To Transfer Service Territory* in Docket No. 08-049-26, issued September 11, 2008, attached as Exhibit 2. It was done because All West had nearby fiber optic facilities that would allow it to provide broadband as well as voice services to the rural customers residing within the area, whereas Qwest was able to offer voice services only over facilities from its Evanston, Wyoming exchange that could not be upgraded at a feasible cost. The area contained approximately 8 customers and 10 access lines at the time of filing of Qwest's and All West's December 19, 2008 amendment to the pending study area waiver petition. It currently contains approximately 9 customers and approximately 11 access lines.

The third portion of the transaction constitutes a non-certificated and previously unserved 135-square mile area between the foregoing transferred part of Qwest's Wasatch, Utah exchange and All West's Coalville, Utah exchange. This area was also added to All West's Coalville, Utah exchange pursuant to the approval of the Utah PSC in its *Order Granting Joint Petition To Transfer Service Territory* in Docket No. 08-049-26, issued September 11, 2008, attached as Exhibit 2. This area contained no customers at the time of filing of Qwest's and All West's December 19, 2008 amendment to the pending study area waiver petition. It currently contains approximately 0 customers and approximately 0 access lines.

The fourth and final portion of the transaction comprises a previously unserved five-square-mile portion of southwestern Uinta County, Wyoming that was transferred from Qwest's Wyoming study area to All West's Anschutz, Wyoming exchange. The change was made pursuant to the approval of the Public Service Commission of Wyoming ("Wyoming PSC") in its *Notice and Order* in Docket Nos. 70013-TA-98-14 and 70000-TA-98-432, issued November 17, 1998, attached as Exhibit 3. It was affected because All West had passing fiber optic facilities that would allow it to serve businesses located in this remote area which were previously using a radio link to Evanston, Wyoming, whereas Qwest was able to construct facilities to the area at a feasible cost. The area contained four business customers and approximately 10 access lines at the time of filing of Qwest's and All West's pending November 30, 2007 study area waiver petition. It currently contains approximately 4 customers and approximately 10 access lines.

(7) Description of the geographic areas in which the assignor and assignee (and their affiliates) offer domestic telecommunications services, and what services are provided in each area:

Maps showing the four subject areas are attached as Exhibit 4.

Areas and Services of Qwest and its Affiliates

As one of the original Regional Bell Operating Companies, Qwest operates the majority of its business in a 14-state area that includes Utah and Wyoming, as well as Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota and Washington. Within that area, Qwest provides a variety of telecommunications and information services, including traditional telephone services, Ethernet services, wide area network ("WAN") services, private line services, iQ networking, web hosting, broadband, data integration and voice over Internet Protocol ("VoIP") services to business customers.

Through Qwest's affiliates, CenturyLink provides similar types of services throughout the United States and in many other countries. CenturyLink's local exchange carriers provide local exchange telecommunications and other communications services in 37 states.

Areas and Services of All West and its Affiliates

All West is an independent local exchange carrier that provides local exchange telephone service and exchange access as an incumbent local exchange carrier ("ILEC") in eight exchanges (Coalville, Jordanelle ILEC, Jordanelle CLEC, Kamas, Randolph, Heber, Timber Lakes, & Park City) in Summit, Wasatch, & Rich Counties in rural northeastern Utah, and in three exchanges (Anschutz, Cokeville and Evanston) in Uinta and Lincoln Counties in rural southwestern Wyoming. All West currently serves

approximately 7,500 access lines. All West's local exchange service offerings include custom calling features, CLASS services and voice mail.

All West Utah CLEC, a Utah Company provides local exchange telephone service and exchange access as a competitive local exchange carrier ("CLEC") in three exchanges in Summit and Wasatch Counties in rural northeastern Utah.

All West World Connect, a Utah Company offers residential and business long distance toll calling plans and service to customers in All West's local exchange and competitive exchange service areas.

All West Broadband, a Utah Company offers dial-up, and high-speed Internet access to customers in All West's local exchange and competitive exchange service areas.

All West Video, a Utah Company offers digital television service to customers in All West's local exchange and competitive exchange areas.

All West Utah operates call centers in Utah & Idaho.

All West operates AllWestHosting.com, a web-hosting business that serves customers located in the United States and in other countries.

All West Communications owns a 100 percent stock interest in All West Wireless, a Utah Company that provides wireless telecommunications services in northeastern Utah and southwestern Wyoming.

All West has no other subsidiaries or affiliates that offer domestic telecommunications services.

(8) Statement as to how the application fits into one or more of the presumptive streamlined categories in section 63.03 or why it is otherwise appropriate for streamlined treatment:

This application does not fit within the presumptive streamlined categories in Section 63.03(b) of the Commission's Rules, and streamlined treatment is not requested.

(9) Identification of all other Commission applications related to the same transaction:

On November 30, 2007, Qwest and All West filed a joint petition for waiver of the Part 36 study area boundary freeze to remove the previously unserved 100-acre portion of the Promontory Ranch Club and the previously unserved five-square-mile portion of southwestern Uinta County from the Utah and Wyoming study areas of Qwest and to include them in the Utah and Wyoming study areas of All West. See Public Notice (*Comment Sought on the Joint Petition of Qwest Corporation and All*

West Communications, Inc.. to Waive the Study Area Boundary Freeze As Codified in Part 36 of the Commission's Rules), CC Docket No. 96-45, DA 08-58, released January 9, 2008. On December 19, 2008, Qwest and All West amended this joint petition to include also the removal of the Utah portion of Qwest's Wasatch exchange and the adjoining non-certificated and unserved area from Qwest's Utah study area and the inclusion of both areas in All West's Utah study area. The joint petition, as amended, is pending at the present time.

(10) Statement of whether the applicants are requesting special consideration because either party to the transaction is facing imminent business failure:

No party to the transaction is facing imminent business failure at this time. Therefore, the applicants are not requesting special consideration because a party to the transaction is facing imminent business failure.

(11) Identification of any separately filed waiver requests being sought in conjunction with the transaction:

On November 30, 2007, Qwest and All West filed a joint petition for waiver of the Part 36 study area boundary freeze to remove the previously unserved 100-acre portion of the Promontory Ranch Club and the previously unserved five-square-mile portion of southwestern Uinta County from the Utah and Wyoming study areas of Qwest and to include them in the Utah and Wyoming study areas of All West. See Public Notice (*Comment Sought on the Joint Petition of Qwest Corporation and All West Communications, Inc.. to Waive the Study Area Boundary Freeze As Codified in Part 36 of the Commission's Rules*), CC Docket No. 96-45, DA 08-58, released January 9, 2008. On December 19, 2008, Qwest and All West amended this joint petition to include also the removal of the Utah portion of Qwest's Wasatch exchange and the adjoining non-certificated and unserved area from Qwest's Utah study area and the inclusion of both areas in All West's Utah study area. The joint petition, as amended, is pending at the present time.

- (12) Statement showing how grant of the application will serve the public interest, convenience and necessity, including any additional information that may be necessary to show the effect of the proposed transaction on competition in domestic markets:**

The proposed transaction will serve the public interest by encouraging and enabling All West to serve and upgrade the service of rural areas that were unserved or underserved at the time they were transferred by the Utah PSC and Wyoming PSC to All West, and that cannot be feasibly served by Qwest. All West has an excellent and proven record of providing basic and advanced telecommunications services to its rural Utah and Wyoming exchange areas. It will extend and upgrade similar quality and affordable service to the residential and business customers in the four affected rural areas.

Conclusion

In light of the foregoing facts and public interest considerations, the Commission is respectfully requested to authorize the transfer to All West Communications, Inc. by Qwest Corporation of the four rural Utah and Wyoming service areas described herein.

Qwest and All West reiterate that they certify, pursuant to 47 C.F.R. §§1.2001 through 1.2003, that no party to the present application is subject to denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.

Respectfully submitted,

QWEST CORPORATION

ALL WEST COMMUNICATIONS, INC.

By _____

By Jack A. Walkenhorst

Printed Name: _____

Printed Name: JACK A. WALKENHORST

Title: _____

Title: VP/Plant Engineering + Operations

Date: _____

Date: 3-5-2012

Conclusion

In light of the foregoing facts and public interest considerations, the Commission is respectfully requested to authorize the transfer to All West Communications, Inc. by Qwest Corporation of the four rural Utah and Wyoming service areas described herein.

Qwest and All West reiterate that they certify, pursuant to 47 C.F.R. §§1.2001 through 1.2003, that no party to the present application is subject to denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.

Respectfully submitted,

QWEST CORPORATION

ALL WEST COMMUNICATIONS, INC.

By Craig J. Brown

By _____

Printed Name: Craig J. Brown

Printed Name: _____

Title: Associate General Counsel

Title: _____

Date: Feb. 17, 2012

Date: _____

Exhibit 1

In the Matter of the Request of All West
Communications, Inc., for Revision to
Exchange Boundaries

REPORT AND ORDER APPROVING
STIPULATION

The Commission approves the Settlement Stipulation of All West Communications, Inc. ("All West"), Qwest Corporation ("Qwest"), and the Utah Division of Public Utilities approving the adjustment of the service territory boundary between Qwest and All West in the Promontory Development.

By The Commission:

On February 1, 2002, All West Communications, Inc. ("All West") filed a Request for Agency Action ("Request") seeking Commission order realigning the exchange boundaries of the Jordanelle and Park City exchanges to place the Promontory Development ("Promontory") entirely within the Jordanelle exchange and within the service territory of All West. The western part of Promontory lies within the Park City exchange and within the service territory of Qwest Corporation ("Qwest").

On March 6, 2002, Qwest filed a Petition to Intervene and Response to Request of All West stating the Request should be denied because it ignores the policy favoring competition in the local exchange market, fails to demonstrate any compelling need to grant the Request, ignores the interests of the many competitive local exchange carriers ("CLEC") certificated to provide local exchange service in Qwest's service territory, makes unwarranted assumptions and

DOCKET NO. 02-2270-01

- 2 -

incorrect allegations, ignores the potential impact on the Universal Service Fund ("USF"), and ignores the fact that the problems it alleges will not be solved by the patchwork solution it proposes. Qwest's Petition to Intervene was granted on March 11, 2002.

On April 8, 2002, the Division of Public Utilities ("Division") notified the Commission that All West desired the Commission place this matter "on hold" pending continuing discussions with Qwest.

On November 22, 2004, All West filed a Notice of Resumption of Proceeding, Petition for Scheduling Conference, and Supplement to Request for Agency Action stating negotiations with Qwest had been fruitless and requesting the Commission set a Scheduling Conference to establish a schedule for the docket.

Pursuant to agreement of the parties, on December 23, 2004, Qwest filed its Response to Request and Supplement of All West for Revision to Exchange Boundaries and Request for Hearing by Commission in which Qwest continued to object to All West's Request. All West filed its Reply to Qwest's Response on January 3, 2005, and filed an Amended Reply on January 5, 2005.

By agreement of the parties, formal Commission action was again placed on hold pending further discussions. However, on April 18, 2006, All West filed a Petition for Scheduling Conference once again requesting a conference to schedule formal proceedings based upon the parties' inability to reach a settlement in this matter.

Pursuant to an agreed schedule, the parties thereafter pre-filed direct, rebuttal, and surrebuttal testimony in preparation for a November 8, 2006, hearing. On October 4, 2006, in

DOCKET NO. 02-2270-01

- 3 -

response to a Qwest Motion for Protective Order filed September 13, 2006, the Commission issued a Protective Order to govern the dissemination and treatment of confidential material in this docket.

Hearing convened as noticed on November 8, 2006 before the Commission's Administrative Law Judge. At the hearing, All West was represented by Stephen F. Mecham of Callister Nebeker & McCullough. D. Vernile Prince, All West President and CEO, testified on behalf of All West. Gregory B. Monson of Steel Rives LLP represented Qwest and presented the testimony of James B. Farr, Staff Advocate in the Public Policy organization of Qwest Services Corporation. The Division was represented by Michael Ginsberg, Assistant Attorney General. Paul M. Anderson, Utility Analyst, and E. Clair Orman, Utility Analyst, testified on behalf of the Division. At hearing, the parties presented for Commission approval a Settlement Stipulation ("Stipulation") agreed to and signed by All West, Qwest, and the Division.

Following hearing, in accordance with the terms of the Stipulation, All West drafted and provided to the parties a description of the proposed service territory boundary between Qwest and All West. On November 20, 2006, the Division filed said description, with minor changes approved by Qwest and All West, recommending the Commission approve the same.

BACKGROUND

On August 15, 2001, All West and its wholly-owned subsidiary All West/Utah, Inc. ("All West/Utah") entered into an agreement ("Agreement") with Pivotal Promontory

DOCKET NO. 02-2270-01

- 4 -

Development, L.L.C. ("Developer") to provide telecommunications services to a development known as the Promontory Ranch Club ("Promontory") located in Summit County, Utah.

The eastern portion of Promontory ("East Promontory") is located in the Jordanville Exchange in which All West is the incumbent local exchange carrier ("ILEC") certified by the Commission to provide telecommunications service. The western portion of Promontory ("West Promontory") is located in the Park City Exchange in which Qwest is the ILEC certified to provide telecommunications service.

All West/Utah is a competitive local exchange carrier ("CLEC") certified by the Commission to provide telecommunications service in exchanges served by Qwest in the state of Utah.

Pursuant to the Agreement, All West and All West/Utah have placed facilities in Promontory and have provided telecommunications service to customers that have requested service in Promontory:

The Developer elected not to comply with the terms and conditions of Qwest's LDA Tariff and Price List for Qwest to place facilities in Promontory to provide telecommunications service to potential customers in the development, so Qwest has not placed facilities in Promontory.

By its Request, All West sought to have all of West Promontory which currently lies within Qwest's service territory transferred to All West's service territory.

On October 23, 2006, the Division filed rebuttal testimony recommending a minor boundary adjustment within Promontory in order to provide a clearly defined boundary

DOCKET NO. 02-2270-01

- 5 -

between the All West and Qwest service territories. According to this recommendation, a revised boundary would be established along the natural barrier of the golf course that runs north and south through Promontory near the existing boundary. According to the Division, establishment of this new boundary would help eliminate the costly and confusing process of determining what side of the exchange boundary a particular lot is located, and thereby ease All West's burden of determining whether a particular lot must be served by All West or by All West/Utah. This new boundary would require the transfer of 73 lots from the current Qwest service territory to an expanded All West service territory.

In response to this recommendation, the parties engaged in negotiations resulting in the Stipulation now before the Commission for approval.

THE STIPULATION

The Stipulation essentially adopts the recommendation put forth by the Division in its pre-filed testimony. The Stipulation contains the following principal terms and conditions. This description of the Stipulation is made for convenience of reference only and is not intended to modify the terms and conditions of the Stipulation appended to this Order.

The Parties agree that the boundary between the Jordanville and Park City Exchanges may be adjusted as proposed in the Rebuttal Testimony of Paul M. Anderson for the Division dated October 20, 2006. All West shall prepare a legal description of the proposed new boundary line and shall circulate the legal description to Qwest and the Division for their review and approval. Upon approval by Qwest and the Division, All West shall submit the proposed

DOCKET NO. 02-2270-01

- 6 -

new boundary line to the Commission, and the Parties request that the Commission enter an order approving the new boundary line.

All West may seek a study area waiver from the Federal Communications Commission changing its study area to include the new territory included in the Jordanelle Exchange. The Parties will not oppose the change in study area and request that the Commission support the change.

All West agrees that its wholly-owned subsidiary All West/Utah will provide telecommunications service to the portion of Promontory remaining in the Park City Exchange in accordance with the terms of the Agreement without seeking state or federal high cost support to provide telecommunications service to the area. If Qwest or another provider, other than All West or a provider affiliated with All West, receives state or federal high cost support to provide telecommunications service to the portion of Promontory remaining in the Park City Exchange, All West/Utah may seek high cost support, state or federal, on the same terms and conditions to provide telecommunications service to the portion of Promontory remaining in the Park City Exchange.

All West agrees that it will not seek a further boundary change between the Jordanelle and Park City Exchanges unless Qwest has agreed in advance to the change:

- a. for Promontory, or
- b. for any other development for a period of three years. All West and Qwest agree that during that period and thereafter they will attempt in good faith to agree to any

DOCKET NO. 02-2270-01

- 7 -

boundary changes when they arise that will make the boundary clear to customers and the service providers.

All West and Qwest shall attempt in good faith to develop a mutually acceptable proposal for extended area service between the Jordanelle and Park City Exchanges within 90 days of the date this Stipulation is approved by the Commission.

DESCRIPTION OF PROPOSED SERVICE TERRITORY BOUNDARY

The proposed service territory boundary between Qwest and All West in Promontory is described as follows:

Beginning at the Northwest corner of Section 1, T. 1 S., R. 4 E.; thence south to the intersection of Promontory Ranch Road; thence easterly along said road to the intersection of the 20' sewer easement that separates Promontory Ridge Phase 1 Subdivision from Wapiti Canyon Phase 1 Subdivision; thence southwesterly along the west boundary of the Pete Dye Canyon Golf Course as it meanders through sections 1, 2, 11 and 14 to the point where it intersects the Ranch Club Trail road; thence south along said road to the intersection of Promontory Ranch Road; thence west along said road to the west boundary of the proposed executive golf course; thence south along said boundary to the east-west quarter section line of Section 23, T. 1 S., R. 4 E.; thence east to the Northwest corner of the Southwest quarter of section 24, T. 1 S., R. 4 E.; thence south to the South West corner of Section 36, T. 1 S., R. 4 E., SLB&M; thence East to the South East corner of Section 31, T. 1 S., R. 5 E., SLB&M; thence South to the South West corner of the North West quarter of Section 32, T. 2 S., R. 5 E., SLB&M; thence East to the South East corner of the North East quarter of Section 33, T. 2 S., R. 5 E., SLB&M; thence South to the South West corner of Section 22, T. 3 S., R. 5 E., SLB&M; thence East to the South East corner of Section 24, T. 3 S., R. 5 E., SLB&M; thence North to the North East corner of Section 25, T. 2 S., R. 5 E., SLB&M; thence West to the South East corner of Section 22, T. 2 S., R. 5 E., SLB&M; thence North to the North East corner of Section 34, T. 1 S., R. 5 E., SLB&M; thence West to the South East corner of Section 29, T. 1 S., R. 5 E., SLB&M; thence North to the North East corner of Section 17, T. 1

DOCKET NO. 02-2270-01

- 8 -

S., 4, 5 E., SLB & M; thence West to the South West corner of Section 7, T. 1 S., R. 5 E., SLB & M; thence North to the North West corner of the South West Quarter of Section 6, T. 1 S., R. 5 E., SLB & M; thence West to the South West corner of the North West Quarter of Section 1, T. 1 S., R. 4 E., SLB & M; point thence north to the north west corner of the north east quarter of section 1, T. 1 S., R. 4 E., SLB & M; thence west to the point of beginning.

In addition to approval of this revised boundary line, the Division recommends the Commission require Qwest to submit a new Park City exchange boundary map reflecting the revised boundary.

DISCUSSION

At hearing, the parties testified the terms and conditions of the Stipulation are in the public interest and represent a reasonable settlement of the matters currently before the Commission. By limiting the number of lots to be transferred from Qwest to All West service territory—all of which are already served exclusively by All West/Utah and only about half of which are currently inhabited—the settlement lessens the customer impact that could have occurred had the entire West Promontory area transferred to All West. Any customer impact is also lessened by the fact that many of the residences at Promontory are second home or vacation properties. The parties also note transfer of these lots will have minimal impact on the state USF. The parties point out that revising the service boundary along the natural barrier of the golf course will benefit numerous residents whose lots are bisected by the current boundary line and will remove an operational burden from All West since it will no longer have to determine on which side of the boundary line a particular lot is situated. The public interest is also served by the parties' agreement to develop a proposal for extended area service between the Jordanelle

DOCKET NO. 02-2270-01

- 9 -

and Park City Exchanges within 90 days of Commission approval of the Stipulation. Finally, the parties point out that the Stipulation prohibits All West from seeking a further boundary change in the Promontory area or in any other area of development for the next three years.

FINDINGS AND CONCLUSIONS

Settlement of matters before the Commission is encouraged at any stage of proceedings.¹ The Commission may approve a stipulation or settlement after considering the interests of the public and other affected persons if it finds the stipulation or settlement in the public interest.² Parties to a proceeding not joining in a stipulation or settlement shall be entitled to oppose the stipulation.³ No party has done so in this case.

Accordingly, we must determine whether the Stipulation in this case is in the public interest. In making this determination, we refer to the definition of public interest factors in section 54-4a-6. These factors include promotion of safe and reliable service at just, reasonable and adequate rates. In reviewing a stipulation, the Commission may also consider whether it was the result of good-faith, arms-length negotiations.⁴

We have carefully reviewed the record in this matter, all issues raised by the parties and the arguments and evidence provided by the parties with respect to those issues. Based upon this review, we find and conclude the parties' agreement to revise the boundary line

¹ Utah Code Ann. § 54-7-1. See also *Utah Dept. of Admin. Services v. Public Service Comm'n*, 658 P.2d 601, 613-14 (Utah 1983).

² *Id.*

³ Utah Code Ann. § 54-7-1(3)(c)(ii).

⁴ *Utah Dept. of Admin. Services*, 658 P.2d at 614, n.24.

DOCKET NO. 02-2270-01

- 10 -

between Qwest and All West in the Promontory area is in the public interest. The terms of the Stipulation represent a just and reasonable resolution of the current dispute such that approval of the Stipulation is in the public interest. We therefore approve the Stipulation as a just and reasonable settlement between the parties to this docket. However, as we have indicated in previous cases, said approval is not intended to alter any existing Commission policy or to establish any precedent by the Commission.

Pursuant to our approval of the Stipulation and the agreed revision of the service territory boundary line between Qwest and All West, we determine to modify the certificated service territories of Qwest and All West in accordance with the boundary line description provided above.

Wherefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters the following proposed:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Settlement Stipulation is approved.
2. The service territory boundary line between Qwest Corporation and All West Communications, Inc., in the West Promontory area of the Promontory Ranch Club located in Summit County, Utah, is adjusted and fixed as described *supra*.
3. The Certificates of Public Convenience and Necessity of Qwest Corporation and All West Communications, Inc., granted by the Commission are amended to reflect the service territory boundary line adjustment approved herein.

DOCKET NO: 02-2270-01

- 11 -

4. Qwest shall file for review with the Division a revised Park City exchange boundary map reflecting the service territory boundary line adjustment approved herein.

5. Pursuant to *Utah Code Ann.* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of *Utah Code Ann.* §§ 63-46b-14 and 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 29th day of November, 2006.

/s/ Steven F. Goodwill
Administrative Law Judge

DOCKET NO. 02-2270-01

- 12 -

Approved and Confirmed this 29th day of November, 2006, as the Report and
Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
000100